THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.2746 of 2007

Between:

Ramavath Ravi Naik.

.. PETITIONER

and

The Commissioner,
Prohibition and Excise,
Hyderabad and another.

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RESPONDENTS

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ORDER:

The petitioner is the owner of Auto bearing No.AP-21-X-2135. It is stated that while the passengers were being carried in the said vehicle, a case in Cr.No.411/05-06 was registered for the offence under Section 7(a) read with 8(e) of A.P.Prohibition and Excise Act, 1995. However, the petitioner while disputing all the allegations made in the said crime, filed an application before the 2nd respondent for release of the said vehicle, pending enquiry.

However, the 2nd respondent passed an order in Rc.No.254/2006/B2, dated 25-10-2006, directing for release of the said vehicle on furnishing bank guarantee for the value of the said vehicle as assessed by the Motor Vehicle Inspector.

Admittedly, the Motor Vehicle Inspector assessed the value of the said vehicle as Rs.75,000/-.

It is stated that the petitioner, being an Auto driver, is not in a position to furnish bank guarantee and therefore, he filed an appeal before the Commissioner of Prohibition and Excise, A.P., Hyderabad, who has also not considered the request of the petitioner for grant of interim custody by accepting third party security along with an undertaking to produce the vehicle as and when required, vide order, dated 05-02-2007.

Aggrieved by the said order, this writ petition has been filed for relaxation of the conditions imposed in the said order.

I am of the opinion that imposing condition to furnish bank guarantee for the value of the said vehicle as assessed by the Motor Vehicle Inspector cannot be said to be illegal and arbitrary. Ultimately, if the said vehicle is confiscated, the petitioner has to either return back the vehicle or pay the value of the said vehicle. Therefore, the said condition imposed by the respondents to furnish bank guarantee is not illegal and arbitrary.

Accordingly, the writ petition is dismissed. However, it is open for the petitioner to furnish bank guarantee and take immediate interim custody of the vehicle as ordered by the respondents. There shall be no order as to costs.

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02-03-2007

Prv